

MONTANA LEGISLATIVE HISTORY

Chapter 18 19 89

Bill H 115 S _____ Original bill & history C

H. Committee on Human Services & Aging

Hearing Date(s) Jan 16 ☒ C

_____ C

_____ C

_____ C

Date Out Jan 17 ☒ C

S. Committee on Judiciary

Hearing Date(s) Jan 30 ☒ C

_____ C

_____ C

_____ C

Jan 30 ☒ C

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

HOUSE FINAL STATUS

3/27 SIGNED BY SPEAKER
 3/28 SIGNED BY PRESIDENT
 3/29 TRANSMITTED TO GOVERNOR
 4/01 SIGNED BY GOVERNOR
 CHAPTER NUMBER 399 EFFECTIVE DATE: 4/01/89

HB 114 INTRODUCED BY GERVAIS, ET AL. ALLOW VETERAN'S SERVICE CREDITS FOR TEACHERS' RETIREMENT

1/11 INTRODUCED
 1/11 REFERRED TO STATE ADMINISTRATION
 1/12 FISCAL NOTE REQUESTED
 1/18 FISCAL NOTE RECEIVED
 1/24 HEARING
 1/30 FISCAL NOTE PRINTED
 2/01 COMMITTEE REPORT--BILL PASSED
 2/03 2ND READING PASSED 100 0
 2/06 3RD READING PASSED 96 0

TRANSMITTED TO SENATE
 2/07 REFERRED TO STATE ADMINISTRATION
 2/28 HEARING
 3/06 COMMITTEE REPORT--BILL CONCURRED
 3/07 2ND READING CONCURRED 39 0
 3/09 3RD READING CONCURRED 50 0

RETURNED TO HOUSE
 3/15 SIGNED BY SPEAKER
 3/16 SIGNED BY PRESIDENT
 3/16 TRANSMITTED TO GOVERNOR
 3/21 SIGNED BY GOVERNOR
 CHAPTER NUMBER 204 EFFECTIVE DATE: 7/01/89

HB 115 INTRODUCED BY MCDONOUGH, ET AL. ADOPTION FEES AND REPORTS; FINE FOR UNREASONABLE FEES BY REQUEST OF DEPARTMENT OF FAMILY SERVICES

1/11 INTRODUCED
 1/11 REFERRED TO HUMAN SERVICES & AGING
 1/16 HEARING
 1/17 COMMITTEE REPORT--BILL PASSED AS AMENDED
 1/19 2ND READING PASSED 89 10
 1/21 3RD READING PASSED 89 3

TRANSMITTED TO SENATE
 1/23 REFERRED TO JUDICIARY
 1/30 HEARING
 1/30 COMMITTEE REPORT--BILL CONCURRED
 2/01 2ND READING CONCURRED 49 0
 2/03 3RD READING CONCURRED 50 0

RETURNED TO HOUSE
 2/10 SIGNED BY SPEAKER
 2/10 SIGNED BY PRESIDENT
 2/11 TRANSMITTED TO GOVERNOR
 2/15 SIGNED BY GOVERNOR
 CHAPTER NUMBER 18 EFFECTIVE DATE: 10/01/89

that deletion is over broad and accomplishes not only the purpose underlying the bill which they support but could raise other questions as to the general placement of the youth in need of supervision. In section 1 of page 4 of the bill, keep in the language "in a licensed facility" and add "except for placement in." This goal could be accomplished more efficiently and with less confusion if we actually enumerated those facilities where the licensing would not be required in this section rather than just have the blatant elimination of the licensing requirement.

Questions From Committee Members: Rep. Good asked Rep. Rehberg if he objected to an amendment to this legislation and Rep. Rehberg said that this bill is just a recommendation on the part of the committee. Rep. Rehberg also stated that he liked the way the bill was written but if it satisfies the needs of the opponents, the amendment is agreed upon. Rep. Good then asked Ms. Jamison if she could reiterate those exceptions that she thought might want to be included. Ms. Jamison stated that Ms. Taylor's memo in the second paragraph sites Pine Hills and Mountain View Schools in addition to placement with the family members.

Rep. Boharski asked Rep. Rehberg if he knew if there was a reason why Mountain View and Pine Hills Schools are not licenses and Rep. Rehberg said that the law does not require them to be licensed. Rep. Boharski then asked if these facilities could be licensed and Rep. Rehberg said that they would not want to be licensed because of what they would have to go through to become licensed.

Closing By Sponsor: Rep. Rehberg closed on the bill and also stated that if an amendment were appropriate, one should be done.

HEARING ON HB 115

Presentation and Opening Statement by Sponsor: Rep. McDonough said this bill was an act to permit the charge of reasonable adoption process fees; to provide for the imposition of a fine on a person convicted of charging or accepting unreasonable adoption process fees; and to require a detailed report concerning the adoption process. This bill clarifies the fees that can be charged in parental adoptions, makes it a crime for people who knowingly offer or accept anything of value greater than that allowed under the fee section for furnishing a child for adoption that they be guilty of a misdemeanor and subject to a fine not to exceed

\$1,000.00, it requires that all charges and expenses paid by the parties must be reported to the court in adoption proceedings. Rep. McDonough then supplied an amendment to this bill. Exhibit 2.

List of Testifying Proponents and What Group They Represent:

Betty Bay, Montana Department of Family Services

List of Testifying Opponents and What Group They Represent:

Bill Driscoll, Attorney at Law

Testimony:

Betty Bay said that she supports this bill and that it will provide guidance to birth parents and prospective adoptive parents. Knowing that expenses will be reported to the court may prevent the potential for either party being taken advantage of. Exhibit 3.

Bill Driscoll does not actually oppose the purpose of this bill and the amendment which is proposed. The definition of adoption fees as reasonable without specifying further is difficult to understand what would be reasonable and when this goes on to pose the possibility of a criminal sanction should be looked into closely. Not all adoption agencies charge fees based strictly on cost of each adoptive placement. Fees based on the ability to pay is most common.

Questions From Committee Members: Rep. Simon asked Ms. Bay what the definition of reasonable might be and Ms. Bay said that the presiding judge would determine what a reasonable fee might be. Rep. Simon then asked Ms. Bay if a party would be subject to a criminal penalty if a person felt that a fee was reasonable and the judge decided it was not reasonable, would criminal action be brought against him. The court fees would determine the amount allowable.

Closing By Sponsor: Rep. McDonough then closed the hearing on this bill and mentioned the reasonable cost of medical expenses and the court determination. It is not uncommon for a judge to use a subjective opinion. The concern about it being a crime can be clarified because the petition goes to a judge before the adoption is finalized. A judge cannot therefore say that the fees are not reasonable and the party is guilty of a misdemeanor. There would be no retroaction crime taking place.

DISPOSITION OF HB 115

Rep. Boharski made a Motion to DO PASS.

Discussion: Rep. Boharski questioned line 25 regarding reasonable costs.

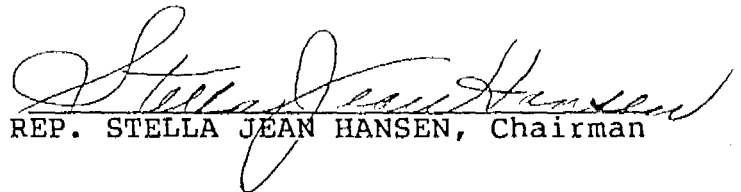
Rep. Simon made a Motion to Move the Amendment.

Amendments and Votes: A vote was taken to remove the effective date of the legislation. The Motion passes.

Recommendation and Vote: A Motion of DO PASS AS AMENDED was voted upon and passed unanimously.

ADJOURNMENT

Adjournment At: 4:35 p.m.


REP. STELLA JEAN HANSEN, Chairman

SJH/ajs

1607.min

DAILY ROLL CALL

HUMAN SERVICES AND AGING COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date 1-16-89

NAME	PRESENT	ABSENT	EXCUSED
Stella Jean Hansen	✓		
Bill Strizich	✓		
Robert Blotkamp	✓		
Jan Brown	✓		
Lloyd McCormick	✓		
Angela Russell	✓		
Carolyn Squires	✓		
Jessica Stickney	✓		
Timothy Whalen	✓		
William Boharski	✓		
Susan Good	✓		
Budd Gould			✓
Roger Knapp	✓		
Thomas Lee	✓		
Thomas Nelson	✓		
Bruce Simon	✓		

STANDING COMMITTEE REPORT

January 17, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Human Services and Aging report that HOUSE BILL 115 (first reading copy -- white) do pass as amended.

Signed: Stella Jean Hansen, Chairman

And, that such amendments read:

1. Title, lines 10 and 11.

Strike: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

2. Page 1, lines 15 and 16.

Strike: "a licensed child-placing agency or"

3. Page 6, lines 12 and 13.

Strike: section 5 in its entirety

AMENDMENTS TO HB 115
PROPOSED BY THE DEPARTMENT OF FAMILY SERVICES

1. Page 1, lines 15 and 16.
Following: "a"
Strike: "licensed child-placing agencies"

EXHIBIT 2
DATE 1-16-89
HB 115

DEPARTMENT OF FAMILY SERVICES



STAN STEPHENS, GOVERNOR

(406) 444-5900

STATE OF MONTANA

P.O. BOX 8005
HELENA, MONTANA 59604

January 16, 1989

Testimony in support of HB 115 ESTABLISHING A PENALTY FOR CHILD PROCUREMENT

Betty Bay, Department of Family Services

Montana Law does not currently address the issue of selling children for profit. To protect children and their birth and adoptive parents, we believe there must be a penalty for charging unreasonable fees.

As an example, I know of a birth mother who contacted prospective adoptive parents regarding relinquishing her unborn child. As the baby's birth date got closer, the birth mother kept "raising the ante." The prospective adoptive parents requested guidelines regarding what they could provide financially. Conversely, the birth mother believed she was entitled to certain compensation and would find adoptive parents to provide what she was requesting.

There are expenses which should be allowed when a birth parent decides he/she is unable to parent and selects parents for the child. House Bill 115 defines the costs for adoption services and requires that an accounting of expenses be filed with the court. Defining and reporting expenses is necessary for birthparents and adoptive parents.

House Bill 115 will provide guidance to birth parents and prospective adoptive parents. Knowing that expenses will be reported to the court may prevent the potential for either party being taken advantage of. If it appears a child is being sold, appropriate action can be taken.

EXHIBIT 3
DATE 1-16-89
HB 115

HUMAN SERVICES AND AGING COMMITTEE

DATE January 16, 1989

[illegible]

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

MINUTES

MONTANA SENATE
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By Chairman Bruce D. Crippen, on January 30, 1989, at 10:00 a.m. in Room 325.

ROLL CALL

Members Present: Chairman Bruce Crippen, Vice Chairman Al Bishop, Senators Tom Beck, John Harp, Loren Jenkins, Joe Mazurek, Dick Pinsoneault and Bill Yellowtail.

Members Excused: Senator Mike Halligan

Members Absent: None

Staff Present: Staff Attorney Valencia Lane and Committee Secretary Rosemary Jacoby

Announcements/Discussion: There were none.

HEARING ON HOUSE BILL 115

Presentation and Opening Statement by Sponsor:

Representative Mary McDonough of Billings, District 56, opened the hearing. She explained that House Bill 115 would permit the charge of reasonable adoption process fees; provide for the imposition of a fine on a person convicted of charging or accepting unreasonable adoption process fees; and require a detailed report concerning the adoption process. She urged the committee to support HB 115.

List of Testifying Proponents and What Group they Represent:

Betty Bay, Department of Family Services

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Betty Bay presented written testimony to the committee
(Exhibit 1)

Questions From Committee Members: Senator Mazurek asked where the language originated. Rep. McDonough said that the bill was modeled after the North Dakota statute.

Senator Mazurek asked if there was any concern about striking "licensed child investigative agency" as far as affecting the authority to charge reasonable fees. Leslie Taylor, attorney for the Department of Family Services, replied that she didn't think so. She said they were a non-profit organization and were working for no profit in many instances. The cost to the agency is paying for the services for the birth mother including medical expenses and are more than what we charge the adopting company.

Senator Mazurek stated that perhaps there needs to be an exemption for your agency. He asked if the bill should clarify the law so they could charge fees. Representative McDonough stated that this was discussed with other agencies which felt this did not apply and the present fees were basically reasonable. She stated that Section 2, of 20-8-109, related to private placement, so they felt that it would not be a problem.

Senator Mazurek asked a question relating to the procedure. He said that 40-8-109 had requirements that resulted in the birth parents and the prospective adoptive parents having a very tight schedule on which to work. The requirement, he said, that the agency serves copies of the oral agreement on the parties might become an unnecessary hurdle. Leslie stated that the purpose of serving the copy is to assure that the parties have reached an agreement which they both understand. She didn't feel that it would cause a problem, that it was a matter of exchanging the prospective cost.

Closing by Sponsor: Rep. McDonough closed the hearing.

DISPOSITION OF HOUSE BILL 115

Discussion: There was none.

Amendments and Votes: There were none.

Recommendation and Vote: Senator Mazurek MOVED that House Bill 115 BE CONCURRED IN. The MOTION CARRIED UNANIMOUSLY.

51st LEGISLATIVE SESSION -- 1989

Date Jan 30, 1989

NAME	PRESENT	ABSENT	EXCUSED
SENATOR CRIPPEN	✓		
SENATOR BECK	✓		
SENATOR BISHOP	✓		
SENATOR BROWN	✓		
SENATOR HALLIGAN		✓	
SENATOR HARP	✓		
SENATOR JENKINS	✓		
SENATOR MAZUREK	✓		
SENATOR PINSONEAULT			
SENATOR YELLOWTAIL	✓		

Each day attach to minutes.

SENATE STANDING COMMITTEE REPORT

January 30, 1988

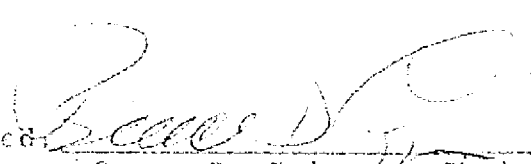
MR. -PRESIDENT:

We, your committee on Judiciary, having had under consideration HB 115 (third reading copy -- blue), respectfully report that HB 115 be concurred in.

Sponsor: McDonough (Bazut)

BE CONCURRED IN

Signed


Bruce D. Crippen, Chairman

DEPARTMENT OF FAMILY SERVICES



STAN STEPHENS, GOVERNOR

(406) 444-59

STATE OF MONTANA

P.O. BOX 60
HELENA, MONTANA 59601

January 30, 1989

Testimony in support of HB 115
ESTABLISHING A PENALTY FOR CHILD PROCUREMENT

Betty Bay, Department of Family Services

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